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September 28, 2015

Via ECF

The Honorable Denise L. Cote
United States District Court for the
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

Re: *NCUA v. UBS Securities LLC*, No. 12-cv-2591 (JWL-JPO) (D. Kan.)
NCUA v. UBS Securities LLC, No. 13-cv-6731 (DLC) (S.D.N.Y.)
NCUA v. Morgan Stanley & Co. Inc., No. 13-cv-6705 (DLC) (S.D.N.Y.)
(Lead Case)

Dear Judge Cote:

UBS filed today a redacted letter motion requesting an order that NCUA produce a Rule 30(b)(6) witness to testify about the potential spoliation of certain Western Corporate Federal Credit Union (“WesCorp”) materials. In accordance with Rule 4(A) of the Court’s Individual Practices in Civil Cases, the Court’s June 8, 2015 Order (ECF No. 313),¹ and Paragraph 9 of the Master Protective Order (ECF No. 103), UBS requests that it be allowed to manually file the letter motion and its accompanying exhibits under seal.

Parties may designate materials Confidential or Highly Confidential pursuant to the Master Protective Order. Paragraph 9 of the Master Protective Order provides:

In the event that before trial in the Related Actions, or in connection with any hearing in or any matter relating to the Related Actions, counsel for any Party determines to file or submit in writing to the Clerk’s office any Protected

¹ All ECF citations are to *NCUA v. Morgan Stanley & Co.*, No. 13-06705 (S.D.N.Y.).

Material, or any papers containing or making reference to the substance of such material or information, such documents or portions thereof containing or making reference to such material or information shall be filed with a request that the documents be filed under seal in accordance with the rules of the Court, and kept under seal until further order of the Court.

UBS has redacted the portions of its letter motion that concern (i) deposition testimony given by William Eberhardt and Timothy Sidley, which Plaintiff designated Confidential, (ii) correspondence concerning Mr. Eberhardt's deposition testimony and (iii) documents produced by Plaintiff and designated Confidential.

A list of exhibits UBS is requesting to file under seal is attached. Exhibits A, B and C are excerpts of transcripts of deposition testimony Plaintiff has designated Confidential. Exhibits D, E, F, H, I, J and K are copies of correspondence between counsel for UBS and counsel for Plaintiff that references deposition testimony and/or documents that either Plaintiff or UBS has designated Confidential. Exhibits M and N were produced by Plaintiff and designated Confidential.

In accordance with Rule 4(A) of the Court's Individual Practices in Civil Cases, the Court's June 8, 2015 Order and Paragraph 9 of the Master Protective Order, UBS requests permission to file its letter motion and Exhibits A, B, C, D, E, F, H, I, J, K, M and N to the letter motion under seal in accordance with the rules of Court, and requests that the documents be kept under seal until further order of the Court.

Respectfully submitted,

/s/ Scott D. Musoff

Scott D. Musoff

cc: All counsel of record (via ECF)

Documents Requested To Be Filed Under Seal

Exhibit	Bates/Description	Confidentiality Designation under Master Protective Order
Exhibit A	Excerpts of Transcript of June 9, 2015 Deposition of William C. Eberhardt, Jr.	Designated Confidential by Plaintiff
Exhibit B	Excerpts of Transcript of July 14, 2015 Deposition of Timothy T. Sidley	Designated Confidential by Plaintiff
Exhibit C	Excerpts of Transcript of June 10, 2015 Deposition of William C. Eberhardt, Jr.	Designated Confidential by Plaintiff
Exhibit D	June 29, 2015 letter from Robert A. Fumerton to Andrew M. Hetherington	Redacted text refers to deposition testimony designated Confidential by Plaintiff
Exhibit E	August 4, 2015 letter from Andrew M. Hetherington to Robert A. Fumerton	Redacted text refers to documents and deposition testimony designated Confidential by UBS
Exhibit F	June 16, 2015 letter from Robert A. Fumerton to Andrew M. Hetherington.	Letter refers to deposition testimony designated Confidential by Plaintiff
Exhibit H	June 30, 2015 letter from Andrew M. Hetherington to Robert A. Fumerton.	Letter refers to deposition testimony designated Confidential by Plaintiff
Exhibit I	July 24, 2015 letter from Robert A. Fumerton to Andrew M. Hetherington.	Letter refers to deposition testimony designated Confidential by Plaintiff
Exhibit J	August 4, 2015 letter from Andrew M. Hetherington to Robert A. Fumerton.	Letter refers to deposition testimony and documents designated Confidential by Plaintiff
Exhibit K	September 8, 2015 e-mail from Andrew M. Hetherington to Robert A. Fumerton	Redacted text refers to deposition testimony designated Confidential by Plaintiff

Exhibit	Bates/Description	Confidentiality Designation under Master Protective Order
	and Gary J. Hacker.	Plaintiff
Exhibit M	Excerpts of NCUA-USC-0010098787 at NCUA-USC-0010099647-658.	Designated Confidential by Plaintiff
Exhibit N	National Credit Union Administration Board's Log of Material Withheld or Redacted, <i>NCUA v. Morgan Stanley Co.</i> , No. 13-cv-6705 (S.D.N.Y.), and related cases.	Designated Confidential by Plaintiff